

The PRESIDING OFFICER (Mr. WARNER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALBARD). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF JEROME A. HOLMES TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will proceed to executive session to consider Calendar No. 764, which the clerk will report.

The assistant legislative clerk read the nomination of Jerome A. Holmes, of Oklahoma, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours for debate equally divided between the Senator from Pennsylvania, Mr. SPECTER, and the Senator from Vermont, Mr. LEAHY, or their designees.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the Judiciary Committee, which I chair, is pleased to report the nomination of Mr. Jerome A. Holmes to be a judge on the U.S. Court of Appeals for the Tenth Circuit. Mr. Holmes comes to this position with an excellent academic and professional background. He was nominated to be a judge on the court on May 4 of this year, received a hearing on June 15 of this year, and was reported out of the Judiciary Committee on July 13 on a voice vote.

The unique situation with Mr. Holmes is that he would be the first African American to serve on the Court of Appeals for the Tenth Circuit. I am about to yield to the distinguished Senator from Oklahoma, Mr. COBURN, who obviously has great familiarity with that circuit, being from the State of Oklahoma. Before moving to Pennsylvania to go to the University of Pennsylvania some years ago, I began my own academic career at the University of Oklahoma, having been a lifelong resident up to that point of the State of Kansas. The Tenth Circuit is near and dear to my heart. I can testify firsthand about the desirability and, in fact, the need for diversity on the Court of Appeals for the Tenth Circuit. There ought to be diversity to the extent practical and possible on all of our courts. It gives the constituency, the litigants, and the people who practice before the court, the sense that there are judges from every walk of life. The broader the background a court possesses, the more understanding it has

of the problems we all face in a very diverse society, which is the melting pot of the world, the better.

That does not mean in any way, shape, or form that qualifications ought to be subordinated, that we should pursue diversity for diversity's sake, regardless of other considerations. But when someone has the qualifications that Mr. Holmes presents to the Senate and in addition would bring diversity to the court to which he has been nominated, that is something to be considered. Certainly the desirability of having diversity on the Supreme Court of the United States is evident and highly visible. Thurgood Marshall was the first Justice on the Supreme Court to be African American. Now we have Justice Clarence Thomas, again, the only African-American judge. It took a long time for women to find a place on the Supreme Court, with the nomination and confirmation of Justice Sandra Day O'Connor in 1981. That was the first year of my service in the Senate, after being elected in 1980. It was a great day when Justice Sandra Day O'Connor took her place on the Supreme Court of the United States. We now have, in addition, Justice Ruth Bader Ginsburg. It is important to have that diversity.

While there is not a Hispanic on the Supreme Court, we have Alberto Gonzales who is the Attorney General of the United States. There is no doubt these individuals are role models. They demonstrate that an Hispanic can come to the highest levels of the Government, as can an African American, as can a woman. It took a long time for women's suffrage, for women to have the right to vote, and to move into the upper echelons of all facets of American life. There is, realistically viewed, still a glass ceiling which imposes some limitation.

Now on to Mr. Holmes and his very excellent qualifications. He graduated from Wake Forest University cum laude in 1983 and the Georgetown University Law Center in 1988. At Georgetown, he served as editor in chief of the Georgetown Immigration Law Journal. In the year 2000, he earned a master's in public administration from Harvard's Kennedy School of Government. Between college and law school, he worked as a social services assistant in the D.C. Department of Corrections. Following law school he clerked for Judge Wayne Alley of the U.S. District Court for the Western District of Oklahoma and then Tenth Circuit Judge William J. Holloway. Following the clerkship, he spent 3 years in private practice as an associate with the well-regarded law firm of Steptoe & Johnson.

In 1994, Mr. Holmes began a distinguished career as a Federal prosecutor serving as an assistant U.S. attorney in the Western District of Oklahoma. Among other duties, he prosecuted public corruption, Federal criminal civil rights violations, and was the of-

fice's antiterrorism coordinator. He also worked on the prosecuting team that built a case against the perpetrators of the Oklahoma City bombing. Since 2005, he has been a director of the private Oklahoma law firm Crowe & Dunlevy, where he has focused on white collar criminal defense and complex litigation. He also chairs the firm's diversity committee.

Mr. Holmes has given back to the people of Oklahoma by taking leadership roles in a wide variety of civic organizations, including service as a director of the Oklahoma Medical Research Foundation, trustee of the Oklahoma City National Memorial Foundation, director of the Oklahoma Academy for State Goals, chairman of the City Rescue Mission, and vice president of the Oklahoma Bar Association. The American Bar Association has unanimously found Mr. Holmes to be qualified to serve on the Tenth Circuit.

Before yielding the floor and turning over the management of the nomination to my distinguished colleague on the Judiciary Committee, I wish to make a few comments about a release of the American Bar Association today on so-called signing statements. I have discussed with Senator COBURN that I will take a few more minutes at this time. May the record show he is nodding in the affirmative. I shall not take too long.

(The remarks of Mr. SPECTER are located in today's RECORD under "Morning Business".)

Mr. SPECTER. Mr. President, at this point, I yield to my distinguished colleague, Senator COBURN, who did an excellent job as Mr. Holmes's principal advocate before the Judiciary Committee, as my designee to handle the proceedings in the Senate this afternoon and tomorrow on the confirmation of Mr. Holmes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, it is a privilege to be on the committee with the Senator from Pennsylvania, and it is a privilege to represent Jerome Holmes during his debate and consideration for the Tenth Circuit Court position.

A lot of discussions have occurred in this body in the last couple of years on judges. One of the things which was prominent in my election to the Senate was the issue of judges. It really comes back down to what the American people would like to see in those people who sit on the highest courts of our land and what are the qualities and characteristics we would like them to have and do they go through a process where those are fairly vetted and taken out of the political arena to see what those qualities are.

Thinking about Jerome Holmes, Senator SPECTER very well outlined his history. So there is no question that he has impeccable credentials and that he is considered well qualified by the American Bar Association. But what he does have is two things. One is a

constitutionally correct and appropriate opinion as to the position of judges in our society. Their job is to take the Constitution, take our statutes and our treaties, and, in the light of Supreme Court precedent, rule only on those things—not to create new law, not to invent a cause they want to make. They are to be very limited in their role. Jerome Holmes understands that.

The second characteristic he has is that of integrity. We hear that word bantered around a lot, and we hear modifiers placed on it. You cannot modify integrity. You either have it or you don't. Your life either represents it or it does not. What people see you do and how you do it is either of integrity or not.

This is an African-American male who was raised in this city, who struggled to accomplish the highest levels of his profession. He excelled every step of the way. Not only did he apply his efforts in terms of his profession, but he spent a great deal of his time applying his skills, knowledge, and intellect to help other people outside of the field of law.

He is a man committed to our country, who has full recognition of what his responsibilities will be as an appellate court judge in the Tenth Circuit in this country. He also fully well knows that his role is to follow the precedent set by the highest Court in this land and to do that in a way which gives everyone before him a truly blind cause of justice for their benefit. We cannot ask more than that of our judges—that in fact they have not only integrity and intellect, but the last thing we can ask is, Do they have heart? Do they have compassion? Have they experienced the real problems of life personally, so that they can see into the lives of others and how they deal with those things in the predicaments and situations which we face and whether they follow a response that is one of integrity. I have no question in my mind that Jerome Holmes has the qualities and characteristics which will make him an excellent appellate judge.

We are going to hear some opposition to him. The opposition is basically because he believes in a colorblind society. He has written commentaries based on what he believes personally. He has been critical—and rightly so, as many in this body have been, and others—of decisions the Supreme Court has made. But to be critical doesn't mean one will not follow what is called stare decisis, the precedent set down by the Supreme Court.

It takes great courage for an African-American male to look at affirmative action in a light that says that in the long run, it hurts race relations rather than helps them. Those are my words, not his. But, in fact, what he has done is said this goes against what he believes to be fair and honorable, as we approach the problems within our society. What he really believes is that everybody should be judged on the con-

tent of their character, not on the color of their skin.

So we will hear a lot over the next 4 hours—2 hours today and 2 hours tomorrow—from those people who would question his position. It is OK to question it, but it is not OK to oppose him on the basis of what his personal beliefs are. If we do that, there is not a judge who can qualify. Not one judge could qualify for any court in this land if we take all their personal opinions and put them out in the open and say: This goes against something I believe.

So I am honored that I have the privilege to stand on the Senate floor and defend the criticisms that will come before him. I also know he has heart, he has intellect, and he has integrity. That is what we want. It doesn't matter whether he is Black or White or whether he is Republican or Democrat, we want those qualities in our judges. That is how we assure our freedom—we take the political arena away and out of the courts, and we let the Constitution and our statutes and our treaties reign supreme. That is the best equality for all that we can give to the next generation.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I ask unanimous consent that any quorum call time we have on the Holmes nomination be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOMENT OF SILENCE TO HONOR OFFICER CHESTNUT AND DETECTIVE GIBSON

The PRESIDING OFFICER. Under the previous order, the Senate will observe a moment of silence in recognition of the anniversary of the fatal shootings of Officer Chestnut and Detective Gibson.

(Moment of silence.)

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, it was 8 years ago today that these two brave men gave their lives in defense of the United States Capitol. A plaque in this building commemorates their bravery. Their names have been etched indelibly

upon the National Law Enforcement Officers Memorial a mile from here, and the headquarters of the United States Capitol Police now bears their names, all of which are fitting and proper memorials but none of which can do these men the full justice they deserve.

We must also remember them in our words, in our actions, and in, as we just did, a moment of prayer. All Members of Congress today, all congressional staff, and, indeed, all Americans owe a great debt of gratitude to Officer Jacob Joseph Chestnut and Detective John Michael Gibson.

These two brave men stood up for us all. They defended our democracy itself, and although none of us will be called upon to display the same sort of moral heroism, we can all learn from their example and all reflect upon their bravery.

Today we mourn for them, we pray for them, we thank them and their families, and we remember them.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, there may be other Members of the Senate who have served as police officers during their careers, sitting Members of the Senate. But I served as a Capitol police officer when I was going to school back here. I worked the swing shift. I have a great affection and feel very affiliated with the Capitol police.

Officer Gibson was killed along with Officer Chestnut on the House side. Not long before this terrible act occurred, the Democratic Senate had a retreat in Virginia. My wife got sick during the night. We had to call the Capitol police who were standing by. I can remember Officer Gibson running. He had to run from where the headquarters was, in a different part of the hotel, to our room—it was spread out a long way—carrying all this emergency equipment. When he came, he was perspiring so hard. He was so gentle and nice with my wife. Every time I hear this recounted, how he and Officer Chestnut were killed, I remember this man so clearly. I can see his face very plainly.

I have expressed to his family my personal appreciation, as I tried to do for Officer Chestnut, whom I did not know except in passing—but I felt some affinity toward Officer Gibson. These two men were at one of the entrances to this Capitol. The crazed man came in and killed both of them. While we have this terrible event in the history of the Capitol 8 years ago today—1998—if there could be a positive side, and that is hard to find, the one place you would have to go is the Visitors Center. That is because as a result of this tragic event the decision was finally made, after years and years of treading water, to go ahead and take care of a new visitors center for this Capitol complex. That will be completed in less than 1 year.

It is going to be a wonderful addition to the Capitol for people who are visiting the Capitol. Millions of people